REMARKS

This amendment is responsive to the Office Action dated May 16, 2006. Claims 1 - 10 are pending in this application and have been rejected. Reexamination is respectfully requested in view of the foregoing amendments and following remarks.

Applicant has elected to amend claim 1 to restrict an ionic water-soluble polymer compound of clause (c) to an ionic water-soluble polymer compound which is selected from the group consisting of a carboxyvinyl polymer, an alkyl-modified carboxyvinyl polymer, and an acrylic acid/alkyl acrylate copolymer.

The clause (c) ionic water-soluble polymer compound selected from a carboxyvinyl polymer, an alkyl-modified carboxyvinyl polymer, and an acrylic acid/alkyl acrylate copolymer, and no longer encompasses sodium carboxymethyl cellulose and cationic cellulosic resins.

Claim 5 is now deleted.

Applicant also has elected to amend claim 1 to delete "A^1, A^2, and" from the clause "at least one among A^1, A^2, and n number of A^3's per molecule of the polyether-modified silicone (I) is the polyoxyalkylene group." The polyether-modified silicone (I) is restricted to a pendant type copolymer by this amendment, the

polyether-modified silicone Applicant used in the Working Examples is a pendant type copolymer.

Claim Rejections Under 35 USC § 103(a)

Claim 1 and Claims 2 - 4 and 6 - 10 (dependent to claim 1) are rejected under 35 USC § 103(a) as being unpatentable over Brieva et al. '485 in view of Gee et al. '029.

Applicant's Disclosure

The oil-in-water emulsified composition of the present application comprises (a) hydrophobic powder particles, (b) a polyether-modified silicone (I), and (c) an ionic water-soluble polymer compound which is selected from the group consisting of a carboxyvinyl polymer, an alkyl-modified carboxyvinyl polymer, and an acrylic acid/alkyl acrylate copolymer.

An ionic water-soluble polymer compound such as carboxyvinyl polymer or alkyl modified carboxyvinyl polymers has excellent characteristics as a thickening agent that it is possible to obtain high viscosity using even a small quantity thereof, but it has been difficult to obtain an oil-in-water emulsified composition containing powder particles and the ionic water-soluble polymer compound having adequately good stability. If hydrophobic powder particles are used in an oil phase as the powder particles, elution of ions into the water phase over time cannot be completely minimized to cause interaction due to

contact with the ions with the ionic water-soluble polymer compound. The present invention was carried out for the purpose of solving these problems and providing an oil-in-water emulsified composition to which an ionic water-soluble polymer compound such as carboxyvinyl polymer or alkyl modified carboxyvinyl polymers and powder particles are added, having a succulent feel originating from the increased viscosity induced by the ionic water-soluble polymer compound and the effects intrinsic to the powder particles with stability over time.

In the present application, an oil-in-water emulsified composition having the succulent feel induced by the ionic water-soluble polymer compound and the effects originating from powder particles with stability over time was provided by using hydrophobic powder particles as powder particles and the polyether-modified silicone (I).

Brieva

Brieva describes an emulsion composition which comprises (a) an oil phase containing (i) a coated pigment consisting essentially of finely divided particles of pigment (inorganic or organic) whose surfaces are chemically bonded to, and physically completely coated by, polysiloxane which coating renders the particles hydrophobic, (b) an aqueous phase, and (c) a surfactant which is a polydiorganosiloxane-polyoxyalkylene copolymer.

However, Brieva does not describe or mention the problems as

described above in cases where an ionic water-soluble polymer compound such as carboxyvinyl polymer or alkyl modified carboxyvinyl polymers is used in an oil-in-water emulsified composition containing powder particles, or the means for solving the problems, specifically, that hydrophobic powder particles are used as powder particles and the polyether-modified silicone (I) is used to form the oil-in-water emulsified composition.

Brieva describes that the composition can also contain xanthan gum, cationic cellulosic resins, etc. (column 7, lines 3-13), and the composition of Example 2 in Brieva contains xanthan gum.

The Examiner argues that Example 2 of Brieva teaches a composition that differs from that claimed only in the selection of the polyether silicone, and the skilled artisan would have been motivated to use a polyether silicone within the breadth of Brieva in such a composition with a reasonable expectation of success. However, the composition of Example 2 in Brieva contains xanthan gum, which is not included in paragraph (c) of claim 1 the ionic water-soluble polymer compound in the present composition. As shown in the present application, it is clear from the results in Table 3, Comparative Example 4 in which xanthan gum was used instead of the ionic water-soluble polymer compound, has poor evaluations in (2) practical tests and (4) makeup acceptance and hold, in comparison with Working Examples 1 - 5.

In addition, in Brieva, sodium carboxymethyl cellulose and cationic cellulosic resins are listed as one of examples of components optionally added, which is not included in paragraph (c) of claim 1 the ionic water-soluble polymer compound in the present composition.

Gee

Gee describes a polydiorganosiloxanepolyoxyalkylene block copolymer, but does not describe or mention the problems as described above in cases where an ionic water-soluble polymer compound such as carboxyvinyl polymers in a powder-containing oil-in-water emulsified composition, or means for solving them as described above.

Date

In Date, acrylic acid/ethyl acrylate copolymer and the carboxyvinyl polymers sold by the B.F. Goodrich Company are described as examples of preferred hydrophilic gelling agents (column 8, lines 47 - 50), but in Date xanthan gum is also described as a suitable hydrophilic gelling agent (column 8, lines 41 - 46). As is clear from comparison of the results of Working Examples 1 - 5 and with the results of Comparative Example 4 in Table 3 of the description of the present application, even if xanthan gum is used instead of acrylic acid/alkyl acrylate copolymer and/or carboxyvinyl polymer, only a

powder-containing oil-in-water emulsified composition having poor evaluations in the practical test and makeup acceptance and hold can be obtained. These results show that carboxyvinyl polymer or an acrylic acid/alkyl acrylate copolymer is not functionally equivalent with xanthan gum. Date does not describe or mention the problems as described above in cases where acrylic acid/ethyl acrylate copolymer or carboxyvinyl polymer is used in an oil-in-water emulsified composition containing powder particles, or the means for solving the problems as described above.

Muller

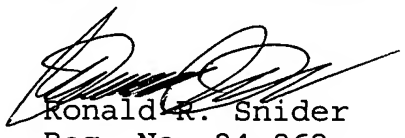
In Muller, polymers of acrylic acid, in particular those from the group of carbomers or Carbopols are mentioned as examples of hydrocolloids (column 19, lines 9 - 11), but Muller also describes sodium carboxymethyl cellulose and xanthan gum as preferred hydrocolloids (column 18, line 58 - column 19, line 8). As is clear from the results in Table 3 of the description of the present application, carboxyvinyl polymer or an acrylic acid/alkyl acrylate copolymer is not functionally equivalent with xanthan gum. A powder-containing oil-in-water emulsified composition of the present invention can be obtained by using a carboxyvinyl polymer, an alkyl-modified carboxyvinyl polymer or an acrylic acid/alkyl acrylate copolymer, but cannot be obtained by using xanthan gum or sodium carboxymethyl cellulose. Muller does not describe or mention the problems as described in cases

where polymers of acrylic acid or Carbopols are used in an oil-in-water emulsified composition containing powder particles, or the means for solving the problems as described above.

Therefore, claim 1 (and claims 2 - 4 and 6 - 10 dependent from claim 1) is not obvious from Brieva and Gee or Brieva, Gee, Date and Muller.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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